

Applicant : Scott Montgomery
Appl. No. : 09/990,626
Examiner : Akiba K. Robinson
Docket No. : 703602.3

Remarks

In response to the Notice of Non-Complaint Amendment dated September 18, 2007, this amendment includes the present claims showing the amendments thereto in underlining and strike-out, and with the correct status identifiers.

Claims 1-48 are pending in this application, of which claims 1, 15, 23, 28, 33, and 44 are independent. Applicant respectfully requests reconsideration.

Claim Rejections

Claims 1-6, 8-10, and 28 were rejected under 35 U.S.C. § 103 as being obvious over Sansone (U.S. Patent No. 6,547,136). Claims 7, 11-27, and 30-48 were rejected under 35 U.S.C. § 103 as being obvious over Sansone in view of Whitehouse (U.S. Patent No. 6,005,945). Claim 29 was rejected under 35 U.S.C. § 103 as being obvious over Sansone, and further in view of Sansone (U.S. 5,008,827).

A. Sansone

At the outset, the applicants respectfully submit that Sansone does not disclose a postage refund.

Sansone describes a context where postage funds are transferred to the postal system in exchange for the shipment of an item. Sansone never discloses an instance where those postage funds, i.e., funds paid to or marked for payment to the postal system, are subsequently refunded to the sender.

The interpretation set forth in the Office Action appears to confuse which party bears the cost for shipping with whether the funds for shipping are in fact refunded. For instance, page 30 of the office action suggests that the act of a business (seller) covering the cost incurred by a buyer in shipping a return qualifies as a postage refund. This is incorrect. No matter which party (e.g., buyer or seller) pays the cost of shipping, these postage funds exchanged with the postal service in return

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for shipment of the item are never refunded by the postal system (or an authority acting on its behalf).

B. Whitehouse

The applicants respectfully submit that the Office Action misinterprets Whitehouse and whether Whitehouse discloses the refunding of used postage. At the bottom of page 30 of the Office Action, it is suggested that a refund situation is disclosed at col. 25, ll. 13-18, where a postage indicium is verified in the database as previously used. This excerpt from Whitehouse is set forth below:

“Since the database of the secure computer used to dispense the postage indicium will verify the date, meter number and serial number of the allegedly misprinted indicium **there is no risk** that the postal service would issue a refund for a postage indicium that was previously used or useable in the future.”

In other words, Whitehouse discloses the elimination of the risk of improperly issuing a refund for postage that was used or remains useable in the future. This is simply referring to a manner in which to prevent the issuance of refunds in a context where they are preferred not to happen (e.g., the indicium was used or remains useable). The Office Action incorrectly relies on this passage as disclosing the refunding of used postage.

C. Conclusion

Sansone and Whitehouse fail to recite all of the elements of the claims. Because the arguments made by the applicants in the submission dated December 13, 2006 remain valid, the applicants respectfully reiterate those arguments and incorporate those arguments by reference herein. The applicants respectfully request that the rejections be withdrawn and that the claims be allowed in their present form.

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Prompt and favorable action on the merits of the claims is earnestly solicited. Should the Examiner have any questions or comments, the undersigned can be reached at (949) 567-6700. The Commissioner is authorized to charge any fee which may be required in connection with this Amendment to deposit account No. 15-0665.

Respectfully submitted,

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Dated: October 11, 2007

By: 

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